

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 33

DOMESTIC LINEN AND UNIFORM

Employer

and

Case 33-RC-4849

TEAMSTERS LOCAL 705, a/w
INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, AFL-CIO

Petitioner

REGIONAL DIRECTOR'S REPORT ON OBJECTIONS AND RECOMMENDATIONS

This report is the Regional Director's recommendation regarding the disposition of five objections filed by the Employer. For reasons discussed in greater detail below, I approve the withdrawal of the objections, will not consider additional objections filed by the Employer, and recommend that the Board issue a certification of representative to the Petitioner.

Procedural History

The petition in this matter was filed on April 5, 2004. The parties executed a Stipulated Election Agreement that the Regional Director approved on April 22, 2004. The parties' agreement provided for an election to be conducted on May 21, 2004, among employees of the Employer in the following appropriate collective-bargaining unit:

All full-time and regular part-time laundry production and maintenance employees, including janitors and plant clericals, employed by the Employer at its Kankakee, Illinois facility; but excluding office clerical employees, confidential employees, sales persons, professional employees, guards, and supervisors as defined in the Act.

The tally of ballots made available to the parties at the conclusion of the election discloses the following results:

Approximate number of eligible voters	37
Void ballots	0
Votes cast for Petitioner.....	22
Votes cast against participating labor organization	12
Valid votes counted.....	34
Challenged ballots.....	3
Valid votes counted plus challenged ballots	37

Challenges are not sufficient in number to affect the results of the election.

A majority of the valid votes counted plus challenged ballots has been cast for Petitioner.

On May 26, 2004, the Employer timely filed objections to conduct affecting the results of the election.¹

By letters dated July 19, 2004 and August 3, 2004, the Employer requested withdrawal of its objections. As it does not appear that the Employer's request to withdraw its objections is inconsistent with the purposes and policies of the Act, it is approved.

In its August 3, 2004 letter,² the Employer alleged for the first time that, "While campaigning for the Union, it has been discovered that [discharged supervisor Lynell Watts] used inflammatory racial appeals to employees to cast the election as 'the blacks vs. the whites.'" In order to avoid the requirement that objections be filed within 7 days of the tally of ballots being made available to the parties, a party seeking to file otherwise untimely objections must demonstrate that the conduct is both newly discovered and previously unavailable. To the extent that the Employer's letter can be construed as arguing that the conduct is newly discovered, it still does not meet the "previously unavailable" portion of the test. Indeed, the Employer cannot so argue where it had timely filed objections alleging other conduct by the same individual as

¹ A copy of the Employer's objections is attached as Exhibit 1.

² A copy of the Employer's letter is attached as Exhibit 2.

objectionable. Because the new conduct alleged in the Employer's letter is not previously unavailable to it, I will not consider this conduct as it constitutes an attempt to file an untimely objection. *Rhone-Poulenc, Inc.*, 271 NLRB 1008 (1984); *Burns International Security Services, Inc.*, 256 NLRB 959, 960 (1981).

Accordingly, I recommend that the Employer's attempt to file an untimely objection be overruled.

Conclusion and Recommendation

Having approved the Employer's request to withdraw its objections, having recommended that the Employer's attempt to file an untimely objection be overruled and there being no other basis for setting aside the election, it is further recommend that a Certification of Representative issue to the Petitioner.³

August 19, 2004

/s/ Ralph R. Tremain
Ralph R. Tremain, Regional Director
National Labor Relations Board
Subregion 33
300 Hamilton Boulevard, Suite 200
Peoria, IL 61602-1246

³ Under the provisions of Section 102.69 of the Board's Rules and Regulations, exceptions to this report may be filed with the Board in Washington, D.C. Exceptions must be received by the Board in Washington by September 2, 2004. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections and which are not included in this Report, are not part of the record before the Board unless appended to the exceptions or opposition thereto which the party files with the Board. Failure to append the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying upon that evidence in any subsequent related unfair labor practice proceeding.

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May 26, 2004

VIA FACSIMILE, E-MAIL AND
FIRST CLASS MAIL
(Fax # 309-671-7095)

Debra Stefanik, Esq.
Field Attorney
National Labor Relations Board, Region 33
300 Hamilton Boulevard — Suite 200
Peoria, Illinois 61602-1246

Re: Domestic Linen - Case 33-RC-4849

Dear Ms. Stefanik:

As you know, this Firm is counsel for Domestic Linen ("Domestic") in the above-referenced representation petition. On May 21, 2004, an election was held at Domestic with Teamsters Local 705 (the "Union"). Pursuant to the NLRB's Rules and Regulations, set forth below are Domestic's objections to the conduct of the Union and/or its agents in this election.

1. Union agents and representatives unlawfully coerced and intimidated employees, and conveyed the futility of voting against the Union.
2. The Union unlawfully coerced and intimidated employees by falsely representing that Domestic had violated their rights, and by suggesting that that they needed the Union to protect them.
3. The Union unlawfully coerced and intimidated voters by utilizing stipulated supervisors of Domestic to solicit employees and secure their votes.
4. Stipulated supervisors of Domestic unlawfully solicited support and votes for the Union, thereby using their authority to rob employees of their freedom of choice in voting on whether or not to select the Union as their representative.
5. Union representatives engaged in other unlawful tactics designed to rob employees of their freedom of choice in determining whether or not to select the Union as their bargaining representative.

Debra Stefanik, Esq.
May 26, 2004
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Thank you for your attention to this matter. Please call us if you have any questions.

Very truly yours,

/s/ Scott V. Kamins

cc: Greg Brown
Nicholas Brown
John Betenia
Mark Stolzenburg
(via facsimile)

Exhibit 1

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August 3, 2004

VIA FACSIMILE AND FIRST CLASS MAIL
(Fax # 309-671-7095)

Mark Stolzenberg, Esq.
National Labor Relations Board
Region 33
300 Hamilton Boulevard — Suite 200
Peoria, Illinois 61602-1246

Re: Domestic Linen — Case 33-RC-4849

Dear Mr. Stolzenberg:

Thank you for your phone call advising us of the status of the evidence obtained thus far relating to the objections filed by Domestic Linen ("Domestic") in the above-referenced representation petition.

As you know, under well-established Board precedent, pro-union conduct of statutory supervisors such as Lynne! Watts may constitute objectionable conduct sufficient to set aside an election under either of two situations: (1) when the employer does not take a clear stand contrary to the supervisors' pro-union conduct, thus leading employees to be confused over whether the employer supports the union; or (2) when the supervisor's pronoun conduct serves to coerce employees.

Although, due to the circumstances we have outlined already, Domestic did not aggressively campaign against the Union, we believe that the evidence is sufficient to establish that most employees were at least aware that the Company did not support the Union. Hence, we will withdraw, and not pursue, any objection in this regard.⁴

In addition, based on the evidence presented thus far, we do not believe that there is sufficient evidence that supervisor Michelle Jackson engaged in objectionable conduct sufficient to warrant overturning the election. Hence, we will withdraw, and not pursue, any objection along these lines.

⁴ When we spoke, you requested a copy of the sample ballot poster. Although, due to the circumstances addressed above, we are no longer pursuing the objection to which this poster relates, thereby rendering it irrelevant to these proceedings, please advise if you would still like a copy, and we will forward it to you.

Mark Stolzenberg, Esq.
August 3, 2004
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Finally, we do not believe that there was coercion by Warts in the form of bribes (i.e., offering the employees an inducement to vote for the Union).

However, we do believe that there was coercion on the part of supervisor Watts. While campaigning for the Union, it has been discovered that he used inflammatory racial appeals to employees to cast the election as "the blacks vs. the whites". These comments by Watts had no purpose other than to inflame the racial sympathies of voters when it came to the election, and to divide the voters by race. We understand that Denice Wright has already provided information in this regard. We also have statements from two other employees relating to the racially divisive tactics used by Watts, which we will forward to you upon your request.

Thank you for your attention and continued cooperation. Please contact me or Don Lee of this office if you have any questions.

Very truly yours,

/s/ Scott V. Kamins

Exhibit 2